IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 36582 of 1998

Between:

Md. Haneef, S/o Md. Ibrahim,
PJP Quality Control Sub-Division No.3, Nandimalla,
Atmakur mandalam, Mahabubnagar Dist

..... PETITIONER

AND

1 The Government of A.P.,by its Principal Secretary,
Irrigation & CAD Department, Secretariat Building,
hyderabad.
2 The Engineer - in- Chief (Admn. Wing)
I & CAD Department, Errummanzil,
Hyderabad.
3 Mr. K.Koteswara Rao,
I & CAD, TRS Sub - Division,
Mahabubnagar.
4 The Registrar,
A.P.Adminstrative Tribunal, Purani Haveli,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Certiorari and set aside the order of the Hon'ble Tribunal in OA.No.5203/96 Dt:11-11-98 and direct the respondent 1 to 2 to give retrospective effect to his promotion since the hurdle of 2 yr of services which held up the promotion all these

years is finally settled with petitioner promotion on 31-12-93 and since he is retired employee now and it would be beneficial for his pension and post retirement life.

Counsel for the Petitioner: MR.A.SREEDHAR

Counsel for the Respondent No.1 & 2: GP FOR SERVICES II

Counsel for the Respondent No.3: Mr.T.Bapuji Rao.

The Court made the following :

ORAL ORDER: (Per Hon'ble Sri Justice P.S.Narayana)

This writ petition is filed seeking a Certiorari to set aside the order passed by the Tribunal in O.A.No.5203 of 1996 dated 11.11.1998 and direct the 1st and 2nd respondents to give retrospective effect to his promotion since the hurdle of two years of service which held up the promotion all these years was finally settled with petitioner's promotion on 31.12.1993 and since he is a retired employee now, it would be beneficial for his pension and post retirement life.

The Tribunal had taken into consideration the rule position and also the fact that earlier, the writ petitioner filed O.A.No.29717 of 1991 praying for the same relief and the same was dismissed as withdrawn. The Tribunal had also observed that there is abnormal delay in approaching the Tribunal by filing the impugned O.A. and on that ground also the said O.A. was dismissed. It may be relevant to have a look at the portion of the impugned order. The relevant portion reads as under:

> *"It is thus evident that the applicant did not question the promotion of his junior. His junior was promoted admittedly on 27.12.1977. Further, earlier also he filed O.A.No.29717 of 1991 seeking the same relief. The said O.A. was also dismissed as withdrawn. Thus, he filed the present O.A. in the year 1996. Thus, the delay itself is sufficient to dismiss this application, as it*

is the law of the law, the settled position would not be made unsettled. It is his submission that the authorities later considered his case and did hold that Rule (iii)(b) of Rule (a) of APESS is not applicable and that the field service of two years was not necessary. Accordingly, he was promoted as Deputy Executive Engineer by order, dated 31.12.1993. It is also his submission that as he was under the impression that he had to gain field service for 2 years, he went on approaching the respondents for relaxation of such rules and thus there is a delay in filing the present O.A. Even such contention stands to rejection for the reason that he was aware of the said fact and in fact questioned the same in O.A.No.29717 of 1991 for relaxation of field service. The said O.A. was dismissed. It thus follows that the relaxation sought for by him was not granted. Now his trump card contention is that as he was given promotion as Deputy Executive Engineer by order dated 31.12.1993, it is deemed that the acquisition of field service for 2 years which is a pre-condition for promotion is deemed to be relaxed. Just because he is promoted it cannot be said that such a rule is not there. At any rate, the abnormal delay present herein is sufficient to reject the claim of the applicant. The O.A. is thus devoid of merits and it is accordingly dismissed. No costs."

In the light of the reasons recorded by the Tribunal, it cannot be said that the Tribunal did not appreciate the contentions raised by the writ petitioner in proper perspective.

In the light of the convincing reasons recorded by the Tribunal, the writ petition is devoid of merits and accordingly the same shall stand dismissed. No costs.

(G. BIKSHAPATHY, J.)

12th April, 2005

_____ (P.S. NARAYANA, J.)

bcj/bcs

To

1 The Principal Secretary, The Government of A.P.,
Irrigation & CAD Department, Secretariat Building,
Hyderabad.
2 The Engineer - in- Chief (Admn. Wing)
I & CAD Department, Errummanzil,
Hyderabad.
3 The Registrar, A.P. Administrative Tribunal, Purani Haveli,
Hyderabad.

4. Two C.D. copies

5. Two CCs to the Government Pleader of Services –II, A.P High Court Buildings, Hyderabad(OUT)